



City of Charlotte
Non-Discrimination in Places of Public Accommodations Ordinance
Frequently Asked Questions

The following information and frequently asked questions (FAQs) are intended to address non-discrimination in public accommodations. The information details who is covered by the ordinance, what is and is not permitted, and how complaints are handled. The FAQs also provide information about how the ordinance impacts public accommodations and the use of public restrooms.

Ordinance Background

The Charlotte City Council adopted a non-discrimination in places of public accommodations ordinance in 1968. The ordinance prohibited discrimination in places of public accommodations based on race, color, religion, and national origin. The City later extended non-discrimination protections based on sex. Amendments approved by the City Council in 2016 expand non-discrimination protections to include marital status, familial status, sexual orientation, gender identity, and gender expression. These amendments are effective April 1, 2016.

What does the Non-Discrimination Ordinance do?

The non-discrimination in places of public accommodations ordinance prohibits a business that provides a public accommodation from discriminating against a patron or customer based on one or more of that person's protected characteristics. Those protected characteristics are: race, color, religion, sex, marital status, familial status, sexual orientation, gender identity, or gender expression, and national origin.

Specifically, a business is not permitted to deny any person the full and equal enjoyment of the business's goods, services, facilities, privileges, advantages, and accommodations on the basis of any protected characteristic. A business is not permitted to exclude, refuse to provide services, offer lesser services, or disadvantage a person because of any of the characteristics protected by the ordinance. Simply put, a business must offer and provide to all persons the full and equal enjoyment of its goods, services, facilities, privileges, and accommodations, regardless of their race, color, religion, sex, marital status, familial status, sexual orientation, gender identity, gender expression, or national origin. Additionally, a business may not advertise or post a sign indicating that it discriminates based on these protected characteristics.

What businesses are affected by the ordinance?

The ordinance applies broadly to all businesses that provide a place of public accommodation in the City of Charlotte.

The legal definition of place of public accommodation is "a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods,

services, facilities, privileges, advantages or accommodations are extended, offered, sold or otherwise made available to the public.” This definition has been in place since 1968.

The determination as to whether a business does or does not provide a place of public accommodation is made on a case-by-case basis by the City of Charlotte’s Community Relations Committee in reviewing a complaint.

What are some examples of businesses that qualify as a places of public accommodations?

- *Lodging establishments or providers:* Hotel, motel, room share service, and bed and breakfast.
- *Refreshments:* Refreshment includes eating and drinking establishments such as a restaurant, bar, nightclub, food truck, diner, lunch stand, bakery, coffee shop, snack shop, and brewery.
- *Entertainment and recreation:* A place of entertainment or recreation includes a variety of establishments where the public may be provided facilities or services for the purpose of recreation or entertainment such as a dance hall, ice or roller skating rink, adventure guide service, movie theater, concert hall, billiards hall, sports facility, museum, sports and entertainment venue, campground, pool, equestrian facility, bowling alley, shooting range, rock climbing facility, and art gallery.
- *Transportation facility:* A transportation facility is considered any private provider of transportation services such as a taxi cab, taxi company, pedi cab, carriage, and bicycle vendor.
- *Business:* A business broadly includes a commercial establishment or person offering goods or services to the public, such as an attorney, doctor, accountant, architect, pharmacist, clothing store, electronics store, furniture store, variety store, hardware store, plumber, electrician, moving service, hospital, florist, grocery store, interior designer, gym, bank, consultant, car dealership, realtor, cleaning service, drug store, information technology provider, dry cleaner, salon, barber, landscaping service, and mechanic.

Are there any businesses or places where the ordinance does not apply?

Yes, there are several categories of entities to which the ordinance does NOT apply. These include:

- A private establishment that is not open to the public, such as a private country club, private dining club, private gymnasium, and private recreation facility.
- A noncommercial or charitable service provider, such as a school, food kitchen, homeless shelter and food delivery service.
- An organization that engages in expressive activity and sincerely holds a viewpoint that would be substantially burdened in its expression by having to comply with the ordinance, such as a church and associated activities, certain education or day care providers, certain clubs or associations, and certain public policy advocacy groups that are expressive associations.

What about restrooms and changing facilities?

A place of public accommodation may not refuse to provide the full and equal enjoyment of its facilities based on a protected characteristic, such as gender identity and gender expression. Restrooms, locker rooms, and other changing facilities are covered by the ordinance.

The ordinance does NOT require the elimination of separate men's and women's facilities, and does not require a business to provide new or special restroom facilities. However, a business may not prohibit a transgender person from using the restroom or locker room consistent with the gender identified or expressed by that person.

The ordinance does not require a business to modify or reconstruct existing men's and women's restroom or changing facilities, although it may choose to do so to accommodate the privacy of its customers. Restroom facilities designated and signed for males or females are permissible and do not violate the ordinance.

What if a person tries to use the law to disguise inappropriate or unlawful activity?

The ordinance does not permit or excuse inappropriate or unlawful activity. The ordinance protects the legitimate use of facilities for transgender persons; it is not an excuse to misuse the law for criminal purposes or even for reasons of convenience.

A business may object to a non-transgender person seeking to use a restroom or changing facility for a false reason. A business may require persons who do not have the protected characteristics of gender identity or gender expression to use the appropriate restroom. A business may also report or remove persons who are engaging in criminal activity.

A business concerned that a non-transgender person is using an inappropriate restroom or changing facility may ask that person to use the appropriate facility. If the person does not comply, the business may contact CMPD to file a trespassing complaint. Such enforcement is not deemed to be discrimination under the ordinance.

Additionally, the North Carolina indecent exposure laws remain valid in restrooms and locker rooms within the City of Charlotte. If a violation of the indecent exposure laws occurs, please contact CMPD.

http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_14/GS_14-190.9.html .

Does the ordinance apply to the hiring practices of a business?

No. Employment is not regulated by the City of Charlotte. The ordinance only prohibits a place of public accommodation from discriminating against its customers in their enjoyment of the business's goods, services, and facilities. Non-discrimination in employment is regulated at the state and federal levels, not by the City of Charlotte.

How does someone who believes they have been discriminated against in violation of the ordinance file a complaint?

Any person who believes that he or she has been discriminated against on the basis of a protected characteristic by a place of public accommodation may file a complaint with the Community Relations Committee for investigation, conciliation, or enforcement as necessary under the circumstances.

How is the ordinance enforced?

The Community Relations Committee processes and investigates complaints of unlawful discrimination under the ordinance and has done so since 1968. In most cases, the Community Relations Committee will first seek voluntary compliance with the law through education and conciliation to achieve a more inclusive, harmonious, and respectful community.

The goal of the ordinance is to protect the rights, freedoms, and responsibilities of all persons in the City of Charlotte. While rarely necessary, the Community Relations Committee may pursue enforcement as a criminal misdemeanor or by seeking a court order directing that the discriminatory conduct cease.

Can a member of the public bring their own lawsuit under the ordinance?

No. The ordinance does not permit private citizens to bring a lawsuit against a business in violation of the ordinance. Only the City of Charlotte may bring a civil action.

If a person believes they have been discriminated against, they may file a complaint with the City's Community Relations Committee, which is responsible for investigating and enforcing the ordinance against a business that has violated the non-discrimination ordinance in providing a public accommodation.

Are there other laws that prohibit discrimination based on these protected characteristics?

Yes, there are a number of federal laws that may apply to a business with respect to its non-discriminatory treatment based on protected characteristics. In a number of circumstances, the federal government has interpreted existing federal legal prohibitions on discrimination based on "sex" or "gender" to include sexual orientation, gender identity, and gender expression. Some examples include:

Title VII of the U.S. Civil Rights Act of 1964 prohibits discrimination in the workplace based on a person's sex and is applicable to most employers. <http://employment.findlaw.com/employment-discrimination/title-vii-of-the-civil-rights-act-of-1964-equal-employment.html>

Based on the prohibition against sex discrimination, the Equal Employment Opportunity Commission will enforce claims of discrimination based on gender identity or sexual orientation. http://www.eeoc.gov/eeoc/newsroom/wysk/enforcement_protections_lgbt_workers.cfm

Also regarding employment and the workplace, the U.S. Department of Labor's Occupational Safety and Health Administration has issued a guide on restroom access for transgender workers which helps employers avoid discrimination against transgender persons. <https://www.osha.gov/Publications/OSHA3795.pdf>

Title IX of the Education Amendments of 1972 prohibits discrimination based on sex in any federally funded educational program or activity, including a school. On the basis of the protections against sex discrimination, the U.S. Department of Education has brought enforcement actions in a variety of jurisdictions to prevent discrimination against transgender students. <http://www.ed.gov/news/press-releases/guidance-issued-responsibilities-schools-address-sexual-violence-other-forms-sex-discrimination>